EXTENSIONS OF REMARKS

HONORING ROBERT CROISSANT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Mr. McINNIS. Mr. Speaker, I would like to take this moment to celebrate the life of a truly remarkable human being, Robert Croissant. Bob recently passed away after a battle with heart troubles. He lived every day to its fullest and truly enjoyed the gifts life had to offer. As family and friends mourn this immense loss, I would like to pay tribute to this great Coloradan.

Bob was born in Kuner, Colorado, a small farming town on the eastern plains. The communities where he grew up were wholly dependent upon agriculture, and growing up he very quickly learned to appreciate the importance of this trade. After graduating from Greeley High School, he attended Colorado A&M, which is known today as Colorado State University. Attending college was not Bob's original plan in life, but after realizing the possibilities it held for his future in the agricultural profession, he was hooked. Eventually, he earned his degree in Agronomy.

Bob's love and fascination for farming soon drew him back to eastern Colorado. Soon after graduating, the university's agricultural extension office was in need of an Assistant County Agent, and he took the position. After helping the farmers of Logan County in this position, he moved to Burlington, Colorado, where he was promoted to County Director.

Bob's knowledge of agriculture was unparalleled in eastern Colorado and his aid to farmers was immeasurable. He was well known for meeting farmers at breakfast where he would examine the crops that were brought in onsight. Bob's widespread efforts in the agricultural arena were slowed down significantly when a heart condition required him to stop his extensive travels. He and his wife then moved to Ft. Collins, where Bob continued to work at Colorado State University as a professor.

Although he may not have been as agile as he once was, he still found a way to stay involved in the profession he loved. He could also be found at nearby 4–H events, where he passed along his expertise in agriculture to young people.

Bob Croissant was a truly remarkable person and he will be greatly missed. He leaves behind a wonderful and loving family. Mr. Speaker, on behalf of the State of Colorado and the U.S. Congress I ask that we take this moment to honor a beloved and cherished Coloradan.

INTRODUCTION OF THE BUSINESS METHOD PATENT IMPROVEMENT ACT OF 2000

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Mr. BOUCHER. Mr. Speaker, I am pleased to join my colleague from California, Mr. Berman, in introducing the Business Method Patent Improvement Act of 2000. As we look forward to shaping intellectual property law for the 21th Century, few issues in the 107th Congress will be more important than deciding whether, and under what conditions, the government should be issuing ''business method'' patents.

Two years ago, the U.S. Court of Appeals for the Federal Circuit ruled in the State Street Bank decision that a patent could be issued on a method of doing business. Since then, the Patent and Trademark Office has been deluged with applications for business method patents. Unfortunately, the PTO has granted some highly questionable ones. Last year, it awarded a patent to Amazon.com for its ''one-click'' method of shopping at a web site. The press recently reported that the PTO is now on the verge of awarding a patent covering any computer-to-computer international commercial transaction.

Something is fundamentally wrong with a system that allows individuals to get patents for doing the seemingly obvious. The root of the problem is that the PTO does not have adequate information—what is called ''prior art''—upon which to determine whether a business method is truly non-obvious and therefore entitled to patent protection. We're introducing this legislation in an effort to repair the system before the PTO awards more monopoly power to people doing the patently obvious.

Not surprisingly, there has been a great deal of concern in the high-tech community that the continued award of business method patents could lead to a significant amount of wasteful litigation, could stifle the development of new technology, and could retard the development of the Internet. Consider for a moment a few of the more extreme cases now in the courts:

Amazon.com has sued Barnesandnoble.com, alleging that it infringed its ''one click'' shopping method, forcing its principal rival and other website merchants either to pay Amazon.com royalties for the use of any one click method or to use a ''two click'' means of selling books and records;

Priceline has sued Microsoft for offering a ''name your price'' service on its Expedia travel site, even though the market economy of the Western world and the theory of microeconomics is predicated on individuals setting a price at which they are willing to purchase something; and

The Red Cross has been sued for using computers to solicit contributions and donations from the public at large, even though philanthropy in this country has always depended on organizations making requests for contributions, whether by phone, in person, or through other means.

It should be said that in these instances, the patent covers the basic concept of the business method, such as the one click to checkout or using computers to solicit donations or accomplish commercial transactions across international borders. The creator of the intellectual property can always obtain a copyright on the software that implements a particular method of doing these things, and no one would complain. What is new and disturbing is obtaining ownership of the entire concept of performing seemingly obvious acts whatever individual method of implementation is used, foreclosing the opportunity for competitors to develop new and different means of entering the business.

I am hard-pressed to understand how the award of these kinds of patents will advance the greater public good. Under the Constitution, Congress has the power to grant inventors exclusive rights to their discoveries ''[t]o promote the Progress of Science and useful Arts. . . .'' Rewarding someone for ''inventing'' a method of doing something obvious on its face hardly seems to meet standard. In fact, rather than encouraging innovation, which is the purpose of the patent laws, it has the opposite effect by foreclosing entire markets to competition.

Our purpose in introducing this bill today is threefold. First, given the importance of the subject and the critical need to support the development of new technology and the growth of the Internet, we believe it is important to begin a public debate now about how Congress should respond to the State Street Bank decision. Second, we want to develop through legislation an appropriate framework for the PTO to assess the claims asserted by would-be business method inventors and to give the public a meaningful opportunity to participate before—not just after—a patent is awarded. And finally, we hope to force business method patent applicants to disclose all the relevant prior art to the PTO, rather than hiding the ball as some do now.

I want to stress that our bill does not outlaw or prohibit the award of business method patents. Rather, it is designed to ensure that these kinds of patents will only be issued when they truly represent something new and innovative—in other words, something that deserves protection.

Our bill makes one important substantive change to the law and addresses two fundamental procedural defects in the current system. And in doing so, it will help create an urgently needed database of prior art so that patent examiners will have a better basis for evaluating claims made by applicants in the future.

On substance, our bill would create the presumption that the computer-assisted implementation of an analog-world business method is obvious and thus is not patentable. In these cases, the burden would be on the applicant to rebut the presumption of obviousness.

On procedure, we would add new protections at the beginning and at the end of the current process. Unfortunately, the public rarely knows when the PTO is evaluating a proposed business method patent application, and thus has no opportunity to bring prior art and other information to the attention of a patent examiner or to argue that the statutory criteria for the award of a patent is for other reasons not met before it is too late to do any good. We, therefore, would require the PTO to give the public at large an opportunity early in the patent review process to submit prior art information and evidence that the claimed invention is already in public use or is obvious. In addition, if asked, the PTO would be required to conduct a proceeding comparable to the discretionary public use proceeding already on the books.

At the end of the process, we would establish an opposition procedure so that the public at large would have one additional opportunity to challenge the award of a business method patent short of having to file a lawsuit. Decisions in these proceedings would be made by an administrative opposition judge chosen from a panel of examiners with special expertise in evaluating business method patents.

The bill makes two other important procedural changes. In cases involving business method patents, the burden of proof on the party seeking to show invalidity would be lowered from the current ''clear and convincing evidence standard'' to the ''preponderance of the evidence'' standard. And because we share the concern the PTO has about the lack of prior art being accessible to examiners, our bill would require an applicant for a business method patent to disclose the extent to which the applicant has searched for prior art.

Taken together, these changes will enable the PTO to do a better job when examining business method patent applications, and they will ensure that the American public has an opportunity to participate more fully in the process, which should reduce the risk of the PTO awarding any more patents on the patently obvious.

PERSONAL EXPLANATION

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Ms. WOOLSEY. Mr. Speaker, due to an event in my District, I missed roll call votes #503–505. Had I been present, I would have voted:

Roll Call #503—Yea.

Roll Call #504—Yea.

Roll Call #505—No.

Regarding H.R. 3088, I wholeheartedly agree that victims of rape should be able to learn whether their assailant could have passed on the HIV virus to them. That's why I support addressing this issue in the Violence Against Women Act, and support women who have been raped and want to undergo an HIV test. However, H.R. 3088 could force innocent individuals to undergo HIV tests and have that information involuntarily disclosed to others. This Congress should not force the accused to undergo an HIV test until he has been proven guilty. Under this legislation, an individual who is indicted and may be able to prove his innocence would still be forced to undergo an HIV test. This bill has not been considered by the Judiciary Committee, and I believe that it strongly violates the principle that Americans are innocent until proven guilty.

PRIVACY COMMISSION ACT

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 2, 2000

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to voice my strong opposition to H.R. 4049, the Privacy Commission Act.

H.R. 4049 will establish a commission to study how best to protect individual privacy. In eighteen months this commission will provide its findings to Congress and the President.

Congress is already well aware of the ability of public and private institutions to gather and share data. While the gathering of personal data has heralded improvements in customer services and national security efforts, it threatens to undermine an individual's ability to protect their most private medical and financial information. Internationally, an individual's ability to control their most private information is considered a human right.

I am very concerned about the invasion of our private rights and that is why Congress should act now, not postpone action for another eighteen months when the commission's report is completed.

There is legislation before this body that would provide adequate protection for individual privacy. I am a cosponsor of three such bills: H.R. 1941, H.R. 2447, and H.R. 3320. These three bills will protect personal health information by limiting use and disclosure of such information, prohibit employment or health insurance discrimination based on genetic information, and amend the privacy provisions in the Gramm-Leach-Bliley Act to prohibit financial institutions from disclosing, or making use of, nonpublic personal credit information. On May 1, 2000, President Clinton announced his consumer privacy plan which he presented to Congress stating ''we cannot allow new opportunities to erode old and fundamental rights.''

These bills and the President's plan should be considered by the full House. Individual privacy protection greatly concerns individuals in my district. They deserve to have this issue debated in full and addressed immediately. H.R. 4049 will serve only to delay this process, and in the end inform us and the American people what is already abundantly apparent: Congress must act immediately to protect individual privacy.

RECOGNIZING EMMA BEATRICE TAYLOR—95 YEARS YOUNG

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Mr. TOWNS. Mr. Speaker, today I honor Emma Beatrice Taylor, a resident of Brooklyn, on her 95th birthday. I ask my colleagues assembled here today to please join me in acknowledging Mrs. Taylor's remarkable life.

On this day, October 3, 1905, here in Washington, D.C., her father, an immigrant from Africa, and her mother, an immigrant from England, were blessed with the birth of their daughter, Emma. As a young girl, Emma possessed excellence, greatness, the favor of God, love and honor, the law of kindness in tongue, morality and character. Emma married Elbert James Robinson, and their union was blessed with three beautiful daughters, including my very good friend, Delores Chainey. Mr. Speaker, all of the amazing blessings bestowed upon Emma Taylor are the result of a God-centered life.

Mr. Speaker, Emma Beatrice Taylor is more than worthy of receiving our birthday wishes, and I hope that all of my colleagues will join me today in honoring this outstanding woman.

HONORING THE HUMBOLDT COUNTY, CALIFORNIA BRANCH OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 3, 2000

Mr. THOMPSON of California. Mr. Speaker, today I recognize the 50th anniversary of the Humboldt County, California Branch of the American Association of University Women (AAUW).

The AAUW's mission is to promote equity, lifelong education, and positive change for all women. This vision has made a significant impact on the lives of Humboldt County women.

The American Association of University Women is committed to promoting diversity, undertaking research, and providing scholarships, grants and awards. This admirable association takes action on behalf of women in the educational system. For America to prosper we must be sure to foster a learning environment that is accessible to young women and the American Association of University Women has always served as an advocate in this cause. The AAUW is one of the largest private sources of educational grants for women.

During the past 50 years the Humboldt chapter of the AAUW has benefited the community in countless ways. Thanks to community action projects, fundraising and special activities—including an educational foundation, cross cultural exchange, and book and food drives—the Humboldt Branch has provided service as well as a forum for policy discussion and community building.

Mr. Speaker, it is appropriate at this time that we acknowledge the outstanding efforts of